65-42

TOWN OF WELLESLEY MASSACHUSETTS

BOARD OF APPEAL

GARRETT S. HOAG
DANA T. LOWELL
F. LESTER FRASER

KATHARINE E. TOY, CLERK
TELEPHONE
235-1664

Petition of James A. and Nancy C. Collins

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:10 p.m. on October 28, 1965, on the petition of James A. and Nancy C. Collins requesting a special exception and variance from the terms of Section XIX of the Zoning By-law which would allow the dwelling owned by them at 61 Elmwood Road to remain in its present location with a side yard less than the required twenty feet. Said request is made under the provisions of Section XIX of the Zoning By-law and Chapter 40A, Section 15, of the General Laws.

On October 8, 1965, the petitioners requested a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Henry D. White represented the petitioners at the hearing.

Statement of Facts

The house involved, which was built in 1956, is located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The petitioners seek permission which will allow the dwelling involved to remain in its present location 19.4' from the easterly side boundary line, rather than the required twenty feet. It was pointed out that the owners did not realize this violation existed until a plan was made by the bank at the time an agreement was made to sell the property. It was further pointed out that undue hardship would result to the petitioners if they were required to tear down that part of the house technically in violation.

A plot plan was submitted drawn by MacCarthy Engineering Service, Inc. & Nashoba Survey Co., Inc., dated August 24, 1965, which showed the lot involved with the house located 19.4' from the easterly lot side line at the rear corner of the dwelling and 20.7' at the front corner.

Decision

It is the unanimous opinion of this Board that the violation of the twenty-foot side yard requirement was due to error and that the correction of this violation would result in unnecessary hardship to the petitioners.

The Board, however, is unable to make the findings prescribed as conditions under which an exception may be granted under Section XIX of the Zoning By-law, because the lot was not held of record under a separate and distinct ownership from adjacent lots on April 1, 1940, but it has considered the request under the provisions of Section 15, Chapter 40A, of the General Laws. In its opinion this case involved circumstances peculiar to this building and not affecting the district generally, and a literal enforcement of

Petition of James A. and
Nancy C. Collins

Section XIX of the Zoning By-law, which would require the petitioners to remove a portion of the dwelling, would cause a substantial hardship to the petitioners which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said by-law.

Accordingly, the requested exception is authorized under the provisions of Section 15, Chapter 40A, of the General Laws, and the dwelling involved may remain in its location as shown on the plan submitted and on file with this Board, drawn by MacCarthy Engineering Service, Inc., & Nashoba Survey Co., dated August 24, 1965.

Garrett S. Hoag

Garrett S. Hoag

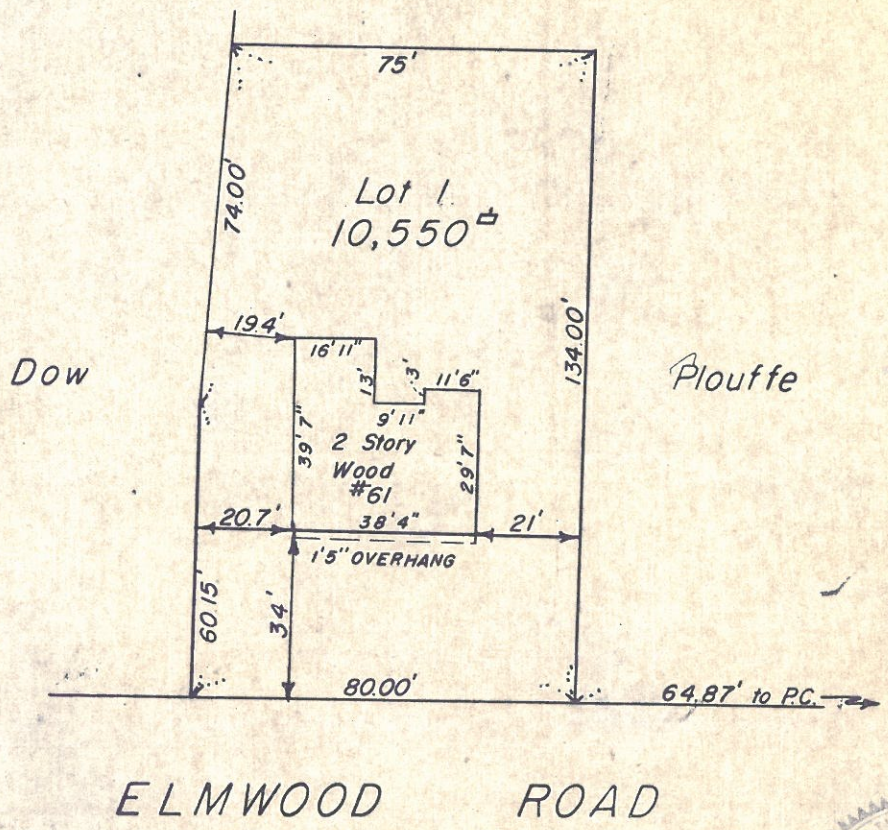
Dana T. Lowell

Dana T. Lowell

F. Lester Fraser

F. Lester Fraser

Filed with Town Clerk_____



COMMONWEALTH OF MASSACHUSETTS
JOSEPH R. SULLIVAN
No. 18846
REGISTERED LAND SURVEYOR

HOUSE CERTIFICATION PLAN

OF LAND IN

WELLESLEY, MASS.

Mac CARTHY ENGINEERING SERVICE Inc. & NASHOBA SURVEY CO. Inc.

NATICK, MASS. MARLBOROUGH, MASS.

REGISTERED LAND SURVEYORS

SCALE: 1" = 40' AUG. 24, 1965

NOTE: THIS PLAN IS NOT TO BE RECORDED OR USED TO ESTABLISH PROPERTY LINES.

I CERTIFY THAT THE BUILDING ON THIS PROPERTY IS LOCATED AS SHOWN

Joseph R. Sullivan